

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

EMPOWER OVERSIGHT)	
WHISTLEBLOWERS & RESEARCH,)	
)	
Plaintiff,)	
)	Case No. 1:23-cv-95 (LMB/JFA)
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
_____)	

JOINT STATUS REPORT

This is a Freedom of Information Act (“FOIA”) action brought by Empower Oversight Whistleblowers & Research in connection with a FOIA request submitted to two Department of Justice (“DOJ”) components: the Office of Information Policy (“OIP”) and the National Security Division (“NSD”).

On May 25, 2023, the Court granted Defendant’s motion to stay the proceedings, and it also ordered the parties to submit status reports every thirty days. Dkt. No. 18. On June 26, the parties provided their first joint status report. Dkt. No. 19. On July 26, 2023, the parties provided their second joint status report. Dkt. No. 20.

Pursuant to that Order, the parties provide the Court the following update:

As to OIP, Defendant has completed processing, as defined in Defendant’s Motion to Stay,¹ of all potentially responsive records identified. Furthermore, Defendant has issued a final

¹ As defined in Defendant’s Motion to Stay, “processing” refers to further responsiveness review, manual de-duplication, application of any applicable FOIA exemptions, and sending out records for consultation to other Executive Branch agencies or DOJ components having equity in the records.

determination² as to 7,269 pages of these potentially responsive records. On May 19, 2023, OIP provided Plaintiff with final determinations as to 7,103 pages of potentially responsive records. On June 26, 2023, OIP provided Plaintiff with a final determination as to seventy-nine pages, consisting of a release of seventy-five pages of responsive records and a determination that four pages should be withheld in full. On August 24, 2023, OIP provided Plaintiff with a final determination as to eighty-seven pages, consisting of a release of eighty-four pages of responsive records and a determination that three pages should be withheld in full. OIP estimates that approximately 244 pages of potentially responsive records remain pending on consultation. OIP is actively working with equity holders to facilitate responses to these consultations as soon as is feasible. OIP will issue further responses to Plaintiff on a rolling basis, upon completion of the consultation process.

As to NSD, as Defendant represented previously, NSD has committed to issue its final response to Plaintiff by August 9, 2023. Consistent with this representation, on August 4, 2023, NSD issued its final response to part two of Plaintiff's FOIA request. In its final response letter, NSD indicated that it found 31 responsive records (112 pages total) and released those records in part. Portions of those records were withheld pursuant to 5 U.S.C. § 552(b)(4), (b)(6), and (b)(7)(C). NSD also identified 61 records (591 pages total) as responsive to part two of Plaintiff's FOIA request. NSD withheld those pages pursuant to 5 U.S.C. § 552(b)(4), (b)(6), and (b)(7)(C).

Pursuant to the Court's May 25 Order, the parties will file another status report by September 25, 2023.

² A "final determination" includes the release of a record in full, release of a record in part subject to applicable FOIA exemptions, withholding of a record in full pursuant to applicable FOIA exemptions, determining that a record is scoped out pursuant to the parties' agreed-upon scoping agreement, determining that a record is not responsive, and/or determining that a record is wholly duplicative of other records processed.

Dated: August 25, 2023

/s/

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/s/

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